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UNCLAS SECTION 01 OF 02 GUATEMALA 000264

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SUBJECT: AFL-CIO SOLIDARITY CENTER SUGGESTS STEPS TO  
IMPROVE GUATEMALAN LABOR COMPLIANCE

REF: A. GUATEMALA 169  
[B](#). GUATEMALA 145  
[C](#). GUATEMALA 140

[1](#)1. (U) Summary: The Ambassador and Laboff met with AFL-CIO Solidarity Center Central America representative Rob Wayss on March 13 to review labor issues and to discuss ways to improve labor compliance. Responding to Wayss' concerns about the reporting of alleged labor crimes in the annual Human Rights Report, the Ambassador expressed post's commitment to report the full range of views on this controversial matter. Wayss committed to providing a more accurate and better documented estimate, by categories, next year. He criticized the CAFTA-DR Labor Submission Report for its failure to recommend immediate consultations, but praised its accurate and comprehensive content. Among other recommendations, he urged the GOG to suspend or cancel export licenses of employers who violate labor laws and to criminally sanction violators, as recommended in the Submission Report. The Ambassador committed to following up with the GOG on the report and Wayss' recommendations. End Summary.

[1](#)2. (SBU) On March 13, the Ambassador and Laboff met with Rob Wayss, AFL-CIO Solidarity Center Central America Representative, to discuss labor issues and ways to improve labor compliance in Guatemala. The Ambassador began by clarifying that there was no intent to under-report labor killings in our Human Rights Report. He noted that while it is impossible to get an accurate estimate of killings for particular motives in Guatemala, the Embassy will report AFL-CIO Solidarity Center estimates in addition to other statistical sources in the future. He stressed that, as Wayss pointed out, if there is a labor conflict the presumption has to be that a killing of a labor leader is not coincidental. Wayss, for his part, committed to providing us a more accurate and better documented estimate of labor killings, with breakout statistics by categories, next year. He explained the AFL-CIO view that if a union leader or member is killed during a time of labor conflict it has to be considered a labor-related killing in the absence of credible evidence to the contrary.

[1](#)3. (SBU) Wayss discussed a recent attack against a construction workers' union, theft of items from the union office, the killing of the union's legal advisor, and a threat against the union's Secretary of Conflicts in Coatepeque (ref C). According to Wayss, the union went to the Special Prosecutor's Office for Crimes Against Journalists and Unionists to present a complaint but was told that they have to file it in Coatepeque where the crimes had occurred. Eventually, the Special Prosecutor's Office

accepted the complaint, but only after a journalist accompanied the group into the office. Wayss stressed that cases brought to the Special Prosecutor's Office should be accepted and treated as labor killings in the absence of evidence to the contrary rather than treated as common crimes. He also stressed the need for security, especially for those who file complaints. In most cases, he said, requests for security are not honored with "the excuse of lack of resources." He said that since October 2007, the Banana Workers' Union of Izabal (SITRABI) had been requesting security from the Ministry of Government. Bandegua had created a police substation to patrol the farm, but there had been no follow-up. According to Wayss, the PNC did not provide personnel to man the station.

14. (SBU) Wayss noted that in the Pedro Zamora murder case, the labor movement had made three requests to see the detained suspect, which he pointed out is a citizen's constitutional right, but the GOG had not honored the request. Wayss related a rumor that the suspect had posted bail and was no longer in custody. The Ambassador said he met on March 12 with the Attorney General, who confirmed the arrest of the suspect and told him that the investigative phase of the case would end in early April, at which point they would initiate a formal trial. He said that the Embassy would follow up to confirm whether the suspect was still in custody and press authorities to provide a response to the labor movement's request.

15. (SBU) Wayss said that the AFL-CIO criticized the CAFTA-DR Labor Submission Report for its failure to recommend formal consultations, but praised the content of the report,

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particularly in documenting the failure of the GOG to meet its commitments under CAFTA-DR. He noted that in some cases the report even went beyond what the AFL-CIO and local unions had alleged. On March 5, the AFL-CIO sent a letter to Rep. George Miller, Chairman of the House Committee on Education and Labor, criticizing the report. According to Wayss, the AFL-CIO remains disappointed and critical of GOG performance on labor rights. In its view, there has been no progress on the CAFTA labor complaint and on enforcement and compliance of labor laws. The Ambassador noted that he demarched President Colom and that Embassy officers have demarched senior-level officials in the Ministries of Foreign Affairs, Economy, and Labor, urging GOG action to improve labor rights (refs A, B). He suggested that the weak link is the Minister of Labor, who does not seem convinced that there is a problem. Wayss thanked the Ambassador for his intervention, and asserted that the problem is lack of political will, not lack of knowledge or lack of resources.

16. (SBU) When asked what could be done to improve labor compliance, Wayss noted that the penalties under CAFTA-DR are inadequate to deter violators and to change the political climate. He expressed hope that under the new Obama Administration the terms of the free trade agreement would be reconsidered. He noted that the CAFTA-DR Labor Submission Report cites a number of specific recommendations, including suspending or canceling export licenses of employers who violate labor laws; utilizing police when labor inspectors are denied entry into factories; and criminally sanctioning employers for failure to comply with the law, all of which the GOG should implement. Wayss also suggested that the Embassy recommend formal consultations on the issues raised in the CAFTA labor submission; invite a high-level inter-agency delegation, with members of Congress, to Guatemala; and press the GOG to insist that factory owners reinstate workers and pay back-wages, as mandated by court order. Wayss pointed out that the GOG has the authority to utilize these measures but that it simply is not doing so. He noted, for example, that failure to pay social security benefits is "a systemic violation" of workers' rights, and urged the USG to send a message that this is a violation of

labor rights and subject to CAFTA-DR.

¶17. (SBU) As a personal request, Wayss asked the Embassy to intervene with the Guatemalan Social Security Institute (IGSS) on behalf of the widow of murdered SITRABI leader Marco Tulio Ramirez, regarding her social security benefits. The Ambassador committed to looking into the issue as well as continuing to follow up with the GOG on the labor complaint and Wayss' suggestions. He noted that the President's Office and the Cabinet are open to discussion but acknowledged that it will require a high level of sustained pressure, which he is prepared to exert, to move the GOG to act.  
McFarland